

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

KEITH E. BERRY,

Plaintiff,

v.

STATE OF WASHINGTON, *et al.*,

Defendants.

CASE NO. C10-5078BHS

ORDER DENYING PLAINTIFF'S  
REQUEST FOR APPOINTMENT  
OF COUNSEL

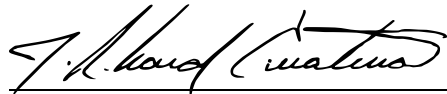
This Civil Rights Action has been referred to United States Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(A) and 636 (b)(1)(B), and Local Magistrate Judge's Rule MJR3 and MJR4. The matter is before the court on plaintiff's motion for appointment of counsel (Doc. 10).

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court can request counsel to represent a party, 28 U.S.C. § 1915(e) (1), the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616

1 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both  
2 the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro*  
3 *se* in light of the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

4 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* and has not  
5 made an argument regarding the likelihood of success on the merits. According, the motion  
6 (Doc. 10) is **DENIED**. In addition, the court notes defendants have not filed any opposition to  
7 the motion, but it appears plaintiff has not properly served a copy of the motion on all the parties  
8 of record, i.e., plaintiff did not file a proof of service. Plaintiff should note that any future  
9 motion or pleading filed with the court needs to be properly served on all the parties of record.  
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11 DATED this 24<sup>th</sup> day of May, 2010.

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14 J. Richard Creatura  
15 United States Magistrate Judge  
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